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2
3 BILL NO. S-76-01-18

4 SPECIAL ORDINANCE NO. S-27-76

5 AN ORDINANCE approving the purchase of
6 Meadowbrook Sanitary Sewer

7 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT
8 WAYNE, INDIANA:

9 SECTION 1. The Offer made to JOHN DEHNER, INC. by the
10 City of Fort Wayne, by and through its Mayor and the Board of
11 Public Works for the purchase of Meadowbrook Sanitary Sewer de-
12 scribed as follows:

13 The following Real Estate and appurtenances and fixtures
14 thereto:

15 A certain sewage system, commencing and connecting at the
16 north end of Meadowbrook Drive in Meadowbrook Addition,
17 Section 1, and proceeding north along the extension of
18 said Meadowbrook Drive to a manhole at a point south of
19 U.S. Highways 30 and 24, thence west parallel to said
20 Highways approximately 67 feet to a certain manhole,
21 thence north 130 feet under U.S. Highways 30 and 24 to
22 a certain manhole on the north side of said Highways,
23 thence west parallel to said Highways approximately 150 feet
24 to a certain manhole, thence north approximately 562.4 feet
25 to a certain manhole at the northeast corner of the property
26 owned by Richard J. and Betty Stehl, thence west parallel
to the north boundary of said Stehl property at which
point it connects to the collection system of Indiana
Suburban Sewers, Inc. within its franchised territory
for a total cost of \$28,447.84, as set out in said offer, which
is on file in the Office of the Board of Public Works and is by
reference incorporated herein, made a part hereof and is hereby in
all things ratified, confirmed and approved.

27 SECTION 2. This Ordinance is in full force and effect
28 from and after its passage and approval by the Mayor.

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30 
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32
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34 APPROVED AS TO FORM
35 AND LEGALITY,

CIT. ATTORNEY

Read the first time in full and in motion by Cross, seconded by Talman, and duly adopted; read the second time by title and referred to the Committee on Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 197_____, at _____ o'clock P.M., E.S.T.

Date:

1-13-76

Charles W. Westerman
CITY CLERK

Read the third time in full and on motion by Moses, seconded by Hinga, and duly adopted, placed on its passage.
Passed (LOST) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT
<u>TOTAL VOTES</u>	<u>8</u>	<u>0</u>		<u>1</u>	
<u>BURNS</u>	<u>✓</u>				
<u>HINGA</u>	<u>✓</u>				
<u>HUNTER</u>	<u>✓</u>				
<u>MOSES</u>	<u>✓</u>				
<u>NUCKOLS</u>	<u>✓</u>				
<u>SCHMIDT, D.</u>	<u>✓</u>				
<u>SCHMIDT, V.</u>				<u>✓</u>	
<u>STIER</u>	<u>✓</u>				
<u>TALARICO</u>	<u>✓</u>				

DATE: 1-27-76

Charles W. Westerman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning-Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. S-2776 on the 27th day of January, 1976.

ATTEST:

(SEAL)

Charles W. Westerman
CITY CLERK

James S. Stier
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th day of January, 1976, at the hour of 10:00 o'clock A.M., E.S.T.

Charles W. Westerman
CITY CLERK

Approved and signed by me this 28th day of January, 1976, at the hour of 4:30 o'clock P.M., E.S.T.

Ralph E. Armstrong
MAYOR

Bill No. S-76-01-18

REPORT OF THE COMMITTEE ON PUBLIC WORKS

We, your Committee on Public Works to whom was referred an Ordinance
approving the purchase of Meadowbrook Sanitary Sewer

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance DO PASS.

Winfield C. Moses, Jr. - Chairman

Donald J. Schmidt - Vice-Chairman

Vivian G. Schmidt

Paul M. Burns

William T. Hinga

Winfield C. Moses Jr.

Donald J. Schmidt

Vivian G. Schmidt

Paul M. Burns

William T. Hinga

CONCURRED IN

DATE 1-27-76 CHARLES W. WESTERMAN, CITY CLERK

62-377-28 HJ

1/29/75

WARRANTY DEED

This indenture witnesseth that JOHN DEHNER, INC., an Indiana Corporation,

of Allen County in the State of Indiana

Convey and warrant to the CITY OF FORT WAYNE, INDIANA, a Municipal Corporation organized under the laws of the State of Indiana,

of Allen County in the State of Indiana,
for and in consideration of One Dollar and Other Valuable Consideration
and appurtenances and fixtures thereto
the receipt whereof is hereby acknowledged, the following Real Estate in Allen County
in the State of Indiana, to wit: A certain sewage system, commencing and connecting at the
north end of Meadowbrook Drive in Meadowbrook Addition, Section 1, and pro-
ceeding north along the extension of said Meadowbrook Drive to a manhole at a
point south of U. S. Highways 30 and 24, thence west parallel to said Highways
approximately 67 feet to a certain manhole, thence north 130 feet under U. S. High-
ways 30 and 24 to a certain manhole on the north side of said Highways, thence west
parallel to said Highways approximately 150 feet, to a certain manhole, thence
north approximately 562.4 feet to a certain manhole at the northeast corner of the
property owned by Richard J. and Betty Stehl, thence west parallel to the north
boundary of said Stehl property at which point it connects to the collection system
of Indiana Suburban Sewers, Inc. within its franchised territory.

Said Grantor further conveys all of the fixtures pertaining to said sewage system
contained within the above described real estate, including, but not limited to,
approximately 1,102 1 ft. of 18", 15" and 12" sewers, six manholes and any and all
other fixtures or detached personal property now in place used in connection with
the operation of said described sewage system.

Said Grantor further agrees as a part of the consideration for the sale of the above
described property to save and hold harmless said Grantee from any and all liability
arising as a result of the within conveyance, including, but not limited to, any claims
against the title of said property by any third party and to hold and save said Grantee
harmless from any costs of litigation arising from any such claim.

Said Grantor further certifies the Corporate Gross Tax to have been paid.

State of Indiana, Allen County, ss:

Before me, the undersigned, a Notary Public in and for said County
and State, this 9th day of December 1975
personally appeared: John Dehner, Inc., by JOHN
DEHNER Its PRESIDENT AND EDWARD
L. DEHNER Its SECRETARY-TREASURER

Dated this 9th Day of December 1975

JOHN DEHNER, INC.

By John Dehner Seal

Its PRESIDENT

By Edward L. Dehner Seal

Its SECRETARY-TREASURER

And acknowledged the execution of the foregoing deed. In witness
whereof, I have hereunto subscribed my name and affixed my of-
ficial seal. My commission expires December 1st 1979

T. J. Fleck
Notary Public

Seal

Seal

Seal

This instrument prepared by John R. Fleck Attorney at Law

Memorandum

To Carl O'Neal, Board of Works Date May 22, 1975
From David B. Keller, City Attorney
Subject Purchase of Dehner Sewer

COPIES TO:

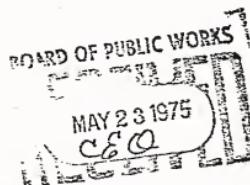
We have put a great deal of work on this problem, the net result of which is that we see no reason for the City not to purchase the sewer. However, the law in this area has a gap in it - a city could keep a privately owned sewer company from operating in its territory and vice versa but apparently there is nothing to keep New Haven and Fort Wayne from competing for customers in the same area.

We are advised by Dehner that most of the people in Meadowbrook would prefer to deal with Fort Wayne rather than New Haven and that New Haven has not entered into a contract with the Meadowbrook community association. This is in our favor, as is the fact the New Haven system is already over-taxed.

On the other hand, New Haven has been wholesaling the area for several years and may claim this creates a proprietary interest.

The safest thing is to make the deal with Dehner contingent on the city's establishing the right to replace New Haven as the wholesaler in the event there is any litigation.

Please call me if you have any questions.



JOHN DEHNER, Inc. • Contractors



OFFICES: 1006 CLARK ST.
P.O. BOX 1246
PHONE: (219) 743-5363

BUILDERS OF
SEWERS, WATERWORKS, ROADS
DRAINAGE, EXCAVATING & GRADING

YARD: 5408 WINCHESTER ROAD
PHONE: 747-4156
AREA CODE 219

FORT WAYNE, INDIANA 46801

January 10, 1975

Honorable Members of Board of Public Works
900 City-County Building
Fort Wayne, Indiana 46802

Dear Sirs:

In conversation with City Engineer Ron Bonar, he states that the City is collecting for sewer service to King's Department Store, McDonald's and a couple of Service Stations on the south side of U.S. 24 and 30 East and we feel that we are entitled to remuneration as we hold title to the main line sewer known as the Meadowbrook Sewer as recorded in Book #73, Page #16002 in the Office of Recorder for the County of Allen, which description is as per attached Bill of Sale.

As you know, we built the sewer you purchased from Indiana Suburban Sewer, Inc. and Suburban Services, Inc. to a point on the south side of the Norfolk & Western Railroad to a point in Adams Township which was the East boundary line of the Territory Franchised by the State of Indiana to Indiana Suburban Sewer, Inc. and Suburban Services, Inc.

At that time, the Meadowbrook Community Association, Inc. with Mr. Jack Fisher as President wanted Indiana Suburban Sewer, Inc. and Suburban Services, Inc. to dispose of their sewage and made a contract with John Dehner, Inc. to build the connecting sewer to the Suburban Sewer manhole at the east end of their franchise territory which we constructed and which construction was inspected by an appointee of the then Board of Public Works of the City of Fort Wayne. Meadowbrook Association had made arrangements with the Anthony Wayne Bank to borrow the amount to pay us, which deal was for some reason not known to us was never completed. So sometime after that at a meeting of the Association and ourselves, we agreed to accept a deed and Bill of Sale for the amount of the contract we had with them, which at this time, with interest to date, not taking into consideration the price it would cost today, is set at the sum of \$28,447.84.

The City of New Haven has been in contact with us on the possibility of their purchasing this sewer line. However, in light of the apparent negotiations between Fort Wayne and New Haven on the possibility of Fort Wayne treating New Haven sewage, we feel it would be more advantages for Fort Wayne to own this line. Fort Wayne could immediately pick up some \$200 or so customers from the Meadowbrook area and eventually, if so desired, this line could be used as a portion of the ultimate hook-up between the two cities. Therefore, we take this opportunity to offer, for your consideration, the sale of these sewers to the City of Fort Wayne at the above mentioned price.

Very truly yours,
JOHN DEHNER, INC.

John Dehner
President

JD:re

INDENTURE

This Indenture is entered into and executed this 29th day of June, 1972, by and between the following parties which will hereinafter be referred to by the indicated designations:

ASSOCIATION: Meadowbrook Community Association, Inc.

c/o Jack T. Fisher
921 Circle Drive
New Haven, Indiana

and

Contractor: John Dehner, Inc.
1206 Clark Street
Fort Wayne, Indiana

1973 JULY 29 PM 2 05
James L. Lambert
ALLEN COUNTY RECORDER

WITNESSETH

On the first day of September 1969, Meadowbrook Community Association, Inc. entered into a Contract with John Dehner, Inc. for the construction of a sewer to connect their sewage collection system to an interceptor sewer of Indiana Suburban Sewers, Inc., which consisted of approximately 1,102 ft. of 18", 15" and 12" sewers, six manholes and tunneling under U. S. Highways 24 and 30, over the following described location;

Commencing and connecting at the north end of Meadowbrook Drive in Meadowbrook Addition, Section 1, and proceeding north along the extension of said Meadowbrook Drive to a manhole at a point south of U.S. Highways 30 and 24, thence west parallel to said Highways approximately 67 feet to a certain manhole, thence north 130 feet under U.S. Highways 30 and 24 to a certain manhole on the north side of said Highways, thence west parallel to said Highways approximately 150 feet, to a certain manhole, thence north approximately 562.4 feet to a certain manhole at the northeast corner of the property owned by Richard J. and Betty Stahl, thence west parallel to the north boundary of said Stahl property at which point it connects to the collection system of Indiana Suburban Sewers, Inc. within its franchised territory.

The above described sewer has been completed according to the plans and specifications under City of Fort Wayne, Indiana inspection.

On October 27, 1969 the Association signed a promissory note to borrow money from Anthony Wayne Bank to pay for the work under said Contract, but the Association did not obtain said monies and nothing has been paid to John Dehner, Inc. for this work to date.

P.O. Box 1246

35
E-Subpoena

In consideration of John Dehner, Inc. releasing all liens and the Association from all obligations of this Contract, the Association conveys to John Dehner, Inc. all their rights, title and interests in said sewer, easements, permits and appurtenances.

In witness whereof, the parties hereto have executed this Indenture on this 29th day of JUNE 1973.

ASSOCIATION: MEADOWROCK COMMUNITY ASSOCIATION, INC.

ATTEST: Sharon A. Haintzelman By: Harley A. Bowers.
Secretary PRESIDENT

CONTRACTOR: JOHN DEHNER, INC.

By John Dehner

STATE OF
INDIANA
ALLEN COUNTY

Subscribed and sworn to before me this 29th day of JUNE 1973.

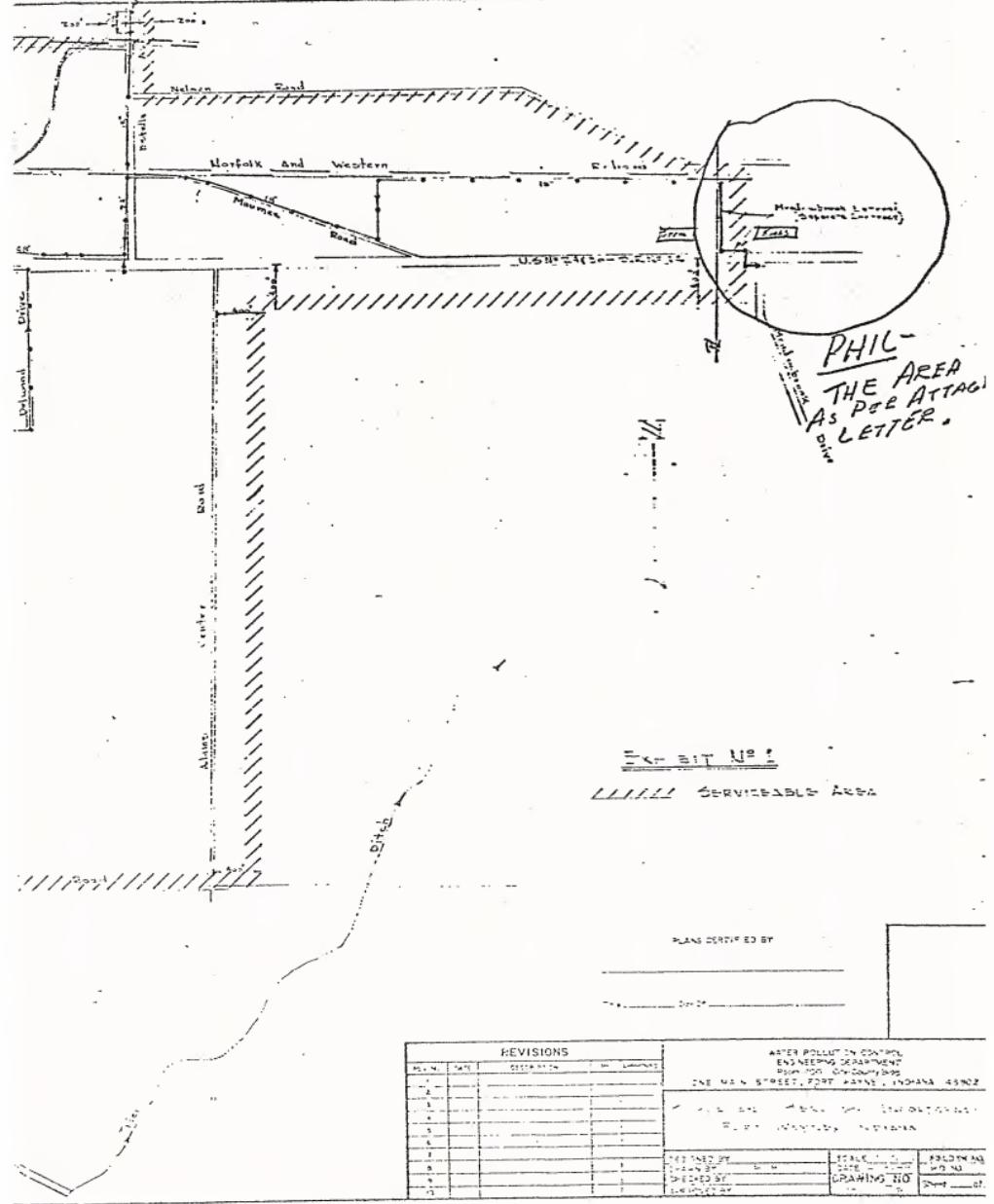
My commission expires SEPTEMBER 8, 1975.

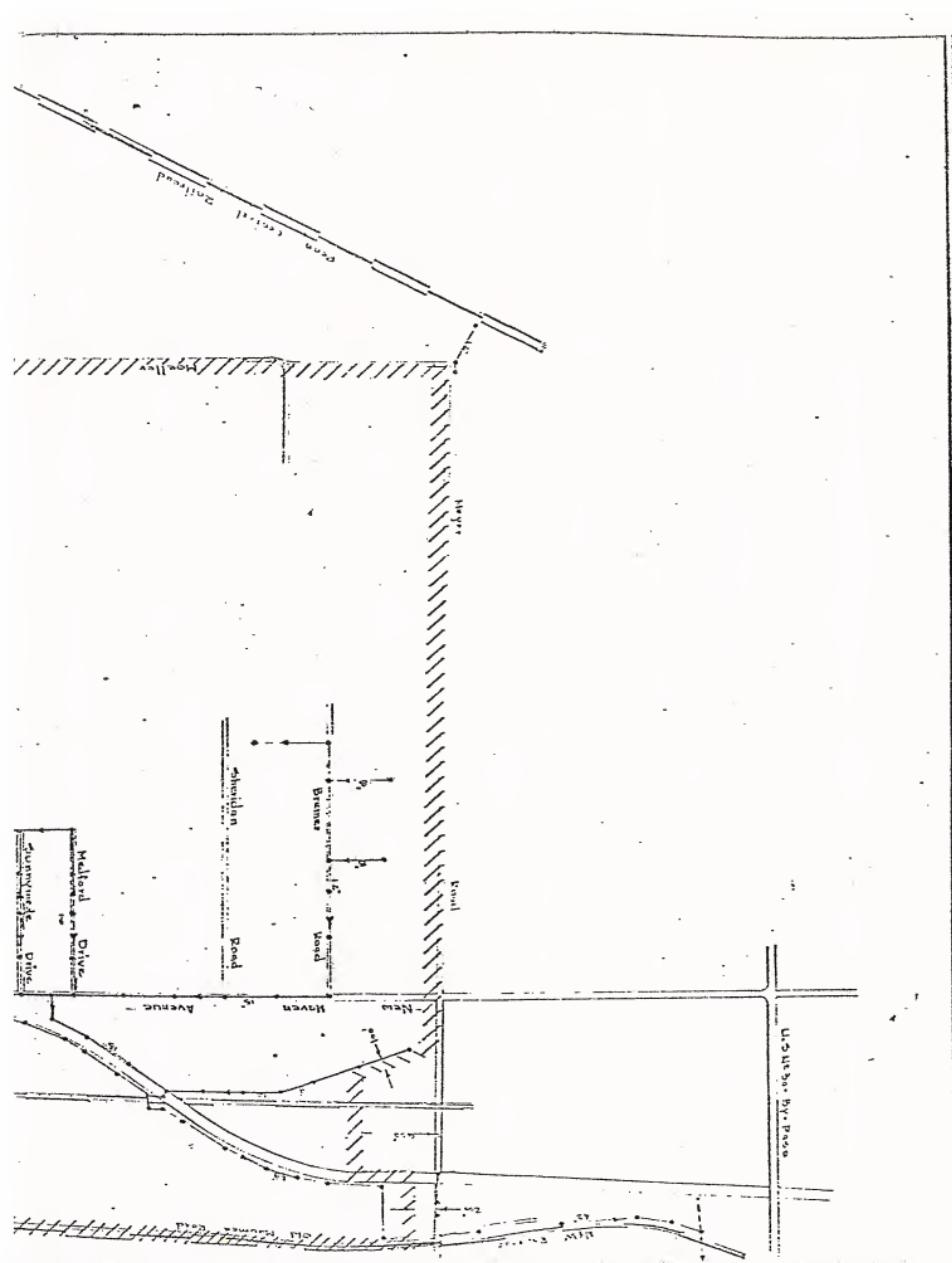
PREPARED BY Richard E. Shulley

-2-



James & Farnott Packing Co.







THE CITY OF FORT WAYNE
board of public works

December 30, 1975

The Common Council
Fort Wayne, Indiana

Gentlemen and Mrs. Schmidt:

The Board of Public Works respectfully requests "Prior Approval" for the purchase of connecting sewer line, known as the Meadowbrook Sewer, as recorded in Book No. 73, Page 16002 in the Office of Recorder of Allen County by a Bill of Sale. This sewer, approximately 1100 feet, is necessary to service an area tied into Indiana Suburban Sewers, Inc., which was purchased a couple years ago. Cost to the City of Fort Wayne is approximately \$28,447.84.

An Ordinance will be introduced in Council for formal approval at a later date.

Sincerely,

J. D. Boswell
Dr. Jerry D. Boswell
Chairman,
Board of Public Works

JDB:tg

John Schmidt *Samuel J. Talarico* *Ivan A. Lebamoff*
Charles W. Westerman *Frederick R. Schmid*
William T. Hings *James Stier* *OSJ*

MEMBERS OF THE COMMON COUNCIL

cc: Mayor Ivan A. Lebamoff
Charles W. Westerman

ATTEST:

Charles W. Westerman
Charles W. Westerman

DIGEST SHEET

TITLE OF ORDINANCE Special Ordinance

A-76-01-18

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

SYNOPSIS OF ORDINANCE Provides for City Utilities purchase of Meadowbrook Sanitary Sewer from John Dehner, Inc. as agreed upon by the Common Council in attached "Prior Approval".

Said purchase necessitated because to service area connected to Indiana Suburban Sewer Line which now belongs to City.

EFFECT OF PASSAGE Will allow acceptance of sewage from people beyond Meadowbrook line as all will connect into Indiana Suburban line now owned by City.

EFFECT OF NON-PASSAGE Probability of New Haven claiming customers.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) Cost to Sewer Utility - \$28,447.84.

ASSIGNED TO COMMITTEE

Pauline Wks JH